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10/073,186	02/13/2002	Tsutomu Tojo	501.36686CC2	6096

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EXAMINER

DAY, MICHAEL HENRY

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 06/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/073,186

Applicant(s)

Tojo, et al.

Examiner

Michael Day

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Feb 13, 2002 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/182,437.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

The first line of the specification should be updated to give the current status of the parent application.

If the Applicant wants the Examiner to consider the foreign reference cited on pages 1, 4, 5, and 18, it is suggested that the Applicant provide the Examiner with a copy of the reference because it is not readily available for consideration.

Appropriate correction is required.

### ***Drawings***

2. Figure 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 1, lines 11, and 12, it is unclear as to how the gap between the first and second divisional electrodes controls the scanning speed of the electron beam. Furthermore, the specification provides no insight as to how the gap is intended to control the speed. Rather, from the specification it would appear that the speed-modulation coil controls the scanning speed of the electron beam.

Referring to claim 11, the last three lines, it is unclear as to a portion of what the speed-modulation coil is intended to be disposed around. Furthermore the phrase, “a portion across said first division electrode” is grammatically incorrect as it is missing a preposition, such as “a portion across from said first division electrode.” It is noted, however, that the specification does not support “the speed-modulation coil installed surrounding a portion (of the envelope?) across said first division electrode.” It is noted that FIG. 4 illustrates the speed-modulation coil installed surrounding a neck portion of the envelope. Here it is assumed that the applicant intended to claim, “the speed-modulation coil installed surrounding a portion of the envelope,” or the like.

Claims 2-10, and 12-20 are rejected for depending from a rejected claim.

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***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors.

In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-15, 17-20 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Watanabe et al. (U.S. patent No. 5,814,930). Watanabe et al. disclose a color CRT substantially as claimed. See FIG. 1, and 9, and respective portions of the specification.

Referring to claim 1, Watanabe et al. disclose a color CRT including an electron gun 31 (see FIG. 1), a screen 24, a focusing electrode 36 (see FIG. 9) have a first and a second divisional electrode 61, 62, respectively, the length of the second divisional electrode 62 is shorter than the length of the first divisional electrode (see FIG. 9), the diameter of the individual electron beam passing openings in the surface of the second division electrode opposed the first division electrode is small than the diameter of the single opening in the second divisional electrode

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opposed to the anode (see FIG. 9), and the length of the second divisional electrode is greater than the diameter of the single opening in the direction at right angles to the in-line direction (see FIG. 9). Watanabe et al. are silent as to the gap between the first and the second divisional electrode 61, 62 controlling the scanning speed of the electron beams. It is well established, however, that claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. Accord. In re Danley, 120 USPQ 528. See also MPEP 2114. Consequently, it is the position of the examiner that it would have been obvious to one of ordinary skill in the art that the color CRT of Watanabe et al. is at least a fully functional equivalent to the Applicant's claimed color CRT as evidenced by Watanabe et al.'s suggestion of all of the Applicant's claimed structural limitations.

Referring to claim 11, Watanabe et al. disclose a color CRT including an electron gun 31 having focusing electrode 36 and an anode (G6), a screen 24, a speed-modulation coil (yoke 30), the focusing electrode 36 (see FIG. 9) have a first and a second divisional electrode 61, 62, respectively, the length of the second divisional electrode 62 is shorter than the length of the first divisional electrode (see FIG. 9), and the length of the second divisional electrode is greater than the diameter of the single opening in the direction at right angles to the in-line direction (see FIG. 9). Watanabe et al. are silent as to the speed-modulation coil controlling the scanning speed of the electron beams, however, speed-modulation coil conventionally control the scanning speed of the electron beams. Official notice taken. It would have been obvious to one skilled in the art to

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use the speed-modulation coil to control the scanning speed of the electron beams, because such functionality is conventional.

Claims 2-9, 12-15, and 17-19 are rejected for the same reasons as claims 1, and 11.

Referring to claims 10 and 20, it is unclear whether Watanabe et al. disclose a color CRT wherein the voltage difference between the first and the second divisional electrodes are less than 3 kV, however, the specification of a suitable working voltage is within the skill of the art.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper extension of the exclusionary right granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.d. 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1, 3, and 4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,348,759. Although the conflicting claims are not identical, they are not patentably distinct from each other for the following reasons. Although the subject claims are not word for word identical with the patented

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claim 1, one skilled in the art would recognize that the subject claims are directed to substantially the same invention. The principle difference between the claims is that the present claims do not include a gap for controlling a scanning speed of the electron beams. It is well established, however, that claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. Accord. In re Danley, 120 USPQ 528. See also MPEP 2114.

Claims 2, 5, and 6 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2, 5, and 6 of U.S. Patent No. 6,348,759

9. Claim 11 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,348,759. Although the conflicting claims are not identical, they are not patentably distinct from each other for the following reasons. Although the subject claims are not word for word identical with the patented claim 1, one skilled in the art would recognize that the subject claims are directed to substantially the same invention. The principle difference between the claims is that the previous claim does not specify the location of the speed-modulation coil. Speed-modulation coils, however, are conventionally disposed around the neck portion of the envelope.

Claims 12, 15, and 16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2, 5, and 6 of U.S. Patent No. 6,348,759.



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10. Claims 1 and 11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 5, respectively, of U.S. Patent No. 6,144,151. Although the conflicting claims are not identical, they are not patentably distinct from each other for the following reasons. Although the subject claims are not word for word identical with the patented claims 1 and 5, one skilled in the art would recognize that the subject claims are directed to substantially the same invention. The principle difference between the claims is that the present claims do not include a division electrode opposed to the anode having a length in the axial direction of the tube that is from about 1.0 to about 1.6 times as great as the diameter of the single opening opposed the anode in a direction at right angles with the in-line direction. The elimination of an element and the associated function is generally considered to be within the skill of the art.

### ***Conclusion***

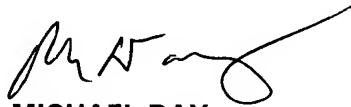
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Day whose telephone number is 703/305-4941. The examiner can normally be reached on Monday-Friday, from 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar Patel, can be reached by phoning 703/305-4794. The Fax phone number is 703/308-7382.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 703/308-0956.

June 10, 2002

A handwritten signature in black ink, appearing to read 'Michael Day', with a long, sweeping horizontal stroke extending to the right.

**MICHAEL DAY**  
**PRIMARY EXAMINER**  
**GROUP 2870**